REMARKS

Status of the Claims

Claims 2-11 are now present in this application. Claims 2 and 5 are independent.

Claim 1 has been canceled without prejudice or disclaimer. Claim 2 has been amended by being rewritten in independent form. Claims 9-11 have been amended to change dependency from canceled claim 1 to rewritten independent claim 2. Reconsideration of this application, as amended, is respectfully requested.

Request for Entry of Amendment After Final Rejection

This amendment should be entered after final rejection because the rewriting of claim 2 in independent form is only a change in format that cannot be said to introduce any new search requirement or new issues. Similarly, the change in dependency of claims 9-11 from canceled claim 1 to rewritten independent claim 2 is also believed to be a formal matter that does not require a new search or raise new issues. In addition, the changes are believed to place this application in condition for formal allowance, which is respectfully requested.

In the event that the Examiner believes that this Amendment does not place this application into condition for allowance, the Examiner is requested to nevertheless enter this Amendment because it places the application into better condition for appeal by reducing issues as to canceled claim 1.

Examiner Interview

Applicant wishes to thank the Examiner for the courtesies extended to Applicant's representative during the telephone interview which was conducted on May 27, 2010. An Examiner Interview Summary dated June 7, 2010, has been made of record.

During the interview, Applicant's representative pointed out that the Request for Reconsideration filed on November 6, 2009, made it clear that the relied upon portions of Onoe failed to teach at least the claim 1 request unit and the determination unit of claims 1 and 5.

With regard to these points the Examiner asked for a more detailed explanation as to both of these units as well as the claim 1 classification unit.

Applicant's representative discussed the specification support for the claim 1 classification unit relative to the disclosure relating to unit 102 (that is discussed starting at the bottom of page 14 of the specification). Applicant's representative also discussed the specification support for the claim 1 determination unit relative to the disclosure relating to unit 106 (that starts at the top of page 18 of the specification).

In the discussion of this last point, Applicant's representative pointed out that the determination unit was required to first organize packets "having the same packet header" into a packet group "according to a classified result by said classification unit" and then to determine whether to transmit the packet group "with a bandwidth guaranteed according to a bit rate of the packet group." The makeup of the determination unit as being required to include the claim 2 "measurement unit" operative to measure "bit rate per unit time of said packet group" and the claim 2 "calculation unit" operations were further noted as to Fig. 10.

The Examiner noted paragraph [0015] of Onoe et al. (U.S. Patent Application Publication No. 2005/0163130, hereinafter "Onoe"), that is more fully discussed below, as to teaching classifying packets into groups and determining if packets are guaranteed in bandwidth for transmission.

Applicant's representative pointed out that this paragraph [0015] classification into groups was not disclosed to be done by anything corresponding to the claimed "determination unit," particularly not by a "determination unit" including the claim 2 "measurement unit" and "calculation unit." In particular, the lack of any teaching relating to bandwidth being "guaranteed according to a bit rate of the packet group" was noted. All that lines 7-11 of paragraph [0015] teach is that a "guaranteed packet," not a packet group, will be transmitted at a certain constant transfer speed, not that any bandwidth is being "guaranteed according to a bit rate of the packet group."

Moreover, it was noted that paragraph [0016] of Onoe was clear that actual classification of packets into groups was to be done at the router relative to the showing of Fig. 5. Moreover, this router already has "the bandwidth guarantee set with respect to certain communication." Accordingly this router was noted to at best correspond to the claimed "bandwidth control device" that will reserve bandwidth, not the claimed determination unit.

These above-noted points and arguments as to claim 5 are more fully noted below.

Rejections under 35 U.S.C. § 102

Claims 1-8 and 10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Onoe et al. This rejection is considered to be technically moot as to canceled claim 1 and is respectfully traversed as to claims 2-8 and 10.

As noted above as to the discussion of the telephone interview, the "determination unit" now recited by independent claim 2 is required to first organize packets "having the same packet header" into a packet group "according to a classified result by said classification unit" and then to determine whether to transmit the packet group "with a bandwidth **guaranteed according to a bit rate of the packet group**" (emphasis added). In addition, claim 2 requires the "determination unit" to include the "measurement unit" operative to measure "bit rate per unit time of said packet group" and the claim 2 "calculation unit."

The out standing Action attempted to correlate this "measurement unit" that must measure "the bit rate per predetermined unit time of said packet group" to the Onoe table with identifier in paragraph [0011]. This table, however, measures nothing, it merely lists individual packet identifiers that identify the individual packets to be transferred with the guaranteed bandwidths. Nothing in paragraph [0011] remotely suggests measuring any "bit rate per unit time of said packet group."

Also, there is no hint of any "calculation unit" of the nature claimed as to this exact same table relied on to correspond to the "measurement unit." Contrary to the claimed requirement for "calculating a parameter representing variation in **the bit rate** [that has to be the bit rate per unit time **of said packet group**], the end of paragraph [0011] at relied on lines 9-16 simply teach that transfer speeds are in bits per second and that the packet to be transferred, not a packet group, will be identified and transmitted at that transfer speed.

As was further noted in the response filed November 6, 2009, the relied on portions of Onoe indicate that each relay node decides whether or not the related packet is guaranteed in bandwidth by the packet identifier, that is, the packet to be guaranteed in bandwidth is predetermined. Thus, Onoe fails to teach or suggest the "determination unit" that organizes a set of packets having the same packet header as a packet group according to a classified result by a classification unit and determines whether or not the packet group is to be transmitted with a bandwidth guaranteed according to the bit rate of the packet group. As can be seen from the

language of claim 2, a packet group to be guaranteed in bandwidth is not predetermined as the "packet determination unit" must determine "that the ***packet group*** is a ***packet group*** to be transmitted with a bandwidth guaranteed when the parameter calculated by said calculation unit is at most a preset value" (emphasis added) and a "***packet group***" is not reasonably interpreted to be a single packet like the individual packes noted in relied upon paragraph [0011].

Thus, Applicant respectfully submits that amended independent claim 2 is not anticipated by Onoe. It is, therefore, respectfully requested that the outstanding rejection of amended amended independent independent claim 2 be withdrawn.

It is also respectfully submitted that the rejection of claims 3, 4, and 10 also be withdrawn for the reasons set forth above with regard to amended independent claim 2 at least based on their dependency on claim 2.

Turning to independent claim 5, and as noted in the response filed November 6, 2009, this claim requires a "determination unit" that derives a relationship between a required bandwidth and a required buffer capacity, and determines whether the packet group is a packet group to be transmitted with a bandwidth guaranteed from said relationship.

This "determination unit" and its claimed operation are best understood by considering the description of buffer 110 and "determination unit" 106' starting at the bottom of page 24 of the specification and touching on Figs. 16-21. There is clearly nothing in Onoe that reasonably can be said to teach or suggest the claim 5 "determination unit" that must derive a relationship between a required bandwidth and a required buffer capacity, and determine whether ***the packet group is a packet group to be transmitted with a bandwidth guaranteed from said relationship***" (not an individual packet). Onoe also fails to teach or suggest these claim elements. Applicant respectfully submits that claim 5 is not anticipated by Onoe. It is respectfully requested that the outstanding anticipation rejection of claim 5 also be withdrawn.

It is respectfully submitted that the rejection of claims 6-8 also be withdrawn for the reasons set forth above with regard to amended independent claim 5at least based on their dependency on claim 2.

also be withdrawn for the reasons set forth above with regard to amended independent claim 2 at least based on their dependency on amended independent claim 5.

Rejections under 35 U.S.C. § 103

Claims 9 and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Onoe in view of Rogers (U.S. Patent Application Publication No. 2001/0036181). This rejection is respectfully traversed.

Rogers is cited as to the subject matter added by claims 9 and 11 and does not cure the deficiencies noted above as to the reliance on Onoe. Accordingly, claims 9 and 11 patentably define over the applied references for at least the same reason that parent independent claim 2 does and withdrawal of this improper rejection of claims 9 and 11 under 35 U.S.C. §103(a) as being allegedly unpatentable over Onoe in view of Rogers s respectfully requested.

Conclusion

All of the stated grounds of rejection have been properly traversed or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn for the reasons noted above. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.
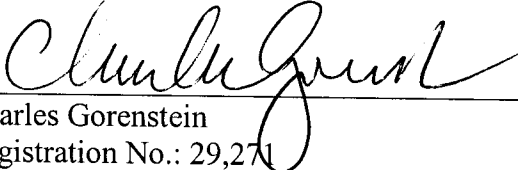
Should there by an outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Raymond F. Cardillo, Jr., Registration No. 40,440 at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: June 11, 2010

Respectfully submitted,

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